JAN 2 5 2002

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STATE OF ARIZONA

DEPT. OF INSURANCE

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In the Matter of:

NAIC # 20443

NAIC # 20427

Continental Casualty Company

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DEPARTMENT OF INSURANCE

) Docket No. 02A-014-INS

) CONSENT ORDER

American Casualty Company of Reading, PA

Respondents

Examiners for the Department of Insurance ("the Department") conducted a market conduct examination of Continental Casualty Company (CCC) and American Casualty Company of Reading, PA. (ACCO), hereinafter referred to collectively as ("Respondents"). The Report of the Examination of the Market Conduct Affairs of the Respondents alleges that Respondents have violated A.R.S. §§20-357, 20-400.01 and 20-1120.

Respondents wish to resolve this matter without formal proceedings. Respondents admit that the following Findings of Fact are true, and consent to the entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

- 1. Respondents are authorized to transact property and casualty insurance pursuant to Certificate of Authority, including workers compensation, issued by the Director.
- The Examiners were authorized by the Director to conduct a market 2. conduct examination of Respondents. The on-site examination was concluded on September 19,1998 and covered the time period from July 1, 1995 to June 30, 1998. Based on their findings the examiners prepared the "Report of Targeted Examination of

the Market Conduct Affairs of the CNA Insurance Companies Including Continental Casualty Company NAIC #20443 and American Casualty Company of Reading, PA NAIC #20427.

- 3. Respondents are members of the National Council on Compensation Insurance ("NCCI"), a workers' compensation rating organization licensed by the Department to file rates and forms on behalf of its members.
- 4. The Examiners reviewed 58 workers' compensation policies issued by the Respondents during the time frame of the examination and found as follows:
- a. Respondents failed to apply or attach the ARD endorsement on eight policies.
- b. Respondents attached a manuscript cancellation endorsement in conflict with Arizona Law on 3 policies.
 - c. Respondents failed to display the Risk ID on four policies.
- d. Respondents failed to follow their Large Deductible Rate Filing by applying an incorrect deductible credit factor and including Allocated Loss Adjustment Expenses (ALAE) within the deductible provisions on two Professional Employer Organizations (PEOs). One policyholder was billed \$66.00 in error. This overcharge has been refunded.
- e. Respondents failed to provide adequate information documenting deductible credit calculations on two PEO Large Deductible Policies.
- f. Respondents failed to issue one policy within 90 days of the binder effective date.
- g. Respondents failed to include the NCCI mandatory endorsement WC020301 with 25 policies.

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h. Respondents failed to apply the correct Experience Modification on nine policies, resulting in two insureds being overcharged \$8,261. These amounts have been refunded.

CONCLUSIONS OF LAW

- 1. Respondents violated A.R.S. §20-357(E) by failing to attach mandatory endorsements, by not displaying the Risk ID on the Information page, and by including ALAE within the deductible provisions of Large Deductible Policies.
- 2. Respondents violated A.R.S. §§20-357(E) and 20-400.01(A) by using an incorrect deductible credit factor when calculating rates on a Large Deductible Policy.
- 3. Respondents violated A.R.S. §§20-357(E) and 20-400.01(D) by not documenting deductible credit calculations on Large Deductible Policies.
- Respondents violated A.R.S. §§20-357(E) by failing to apply the correct 4. Experience Modifications on certain policies and applying modifications where no modifications were filed.
- Respondents violated A.R.S. §20-1120(B) by failing to issue policies 5. within 90 days of the binder effective date.
- 6. Grounds exist for the entry of the following Order in accordance with A.R.S. §§ 20-220, 20-456 and 20-397.

ORDER

IT IS HEREBY ORDERED THAT:

- 1. Respondents shall:
- Attach mandatory endorsements; display the Risk ID on the policy Information page and not include ALAE within the deductible provisions of Large Deductible Policies; and follow the development of deductible credits according to its filing.

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- b. Issue policies within 90 days of the binder effective date.
- C. Apply the correct Experience modifications and not apply modifications where no modifications were filed.
- 2. Within 90 days of this Order's filed date, Respondents shall submit to the Director for approval, evidence that corrections have been implemented and communicated to the appropriate personnel, regarding all of the items listed above in Paragraph 1 of the Order section of this Consent Order. Evidence of corrective action and communications thereof includes, but is not limited to, memos, bulletins, E-mails, correspondence, procedure manuals, print screens and training materials.
- 3. The Department shall be permitted, through authorized representatives, to verify that Respondents have complied with all provisions of this Order.
- 4. Respondents shall pay a civil penalty of \$4,000 to the Director for deposit in the State General Fund in accordance with A.R.S. §20-220(B). The civil penalty shall be provided to the Market Conduct Examinations Section of the Department prior to the filing of this Order.
- 5. The Report of Examination of the Market Conduct Affairs of the Respondents as of September 19, 1998, including the letter submitted in response to the Report of Examination, shall be filed with the Department after the Director has filed this Order.

DATED at Phoenix, Arizona this 24 day of January, 2002.

Charles R. Cohen Director of Insurance

CONSENT TO ORDER

- 1. Continental Casualty Company and American Casualty Company of Reading, PA ("Respondents") have reviewed the foregoing Order.
- 2. Respondents admit the jurisdiction of the Director of Insurance, State of Arizona, admit the foregoing Findings of Fact, and consent to the entry of the Conclusions of Law and Order.
- 3. Respondents are aware of the right to a hearing, at which they may be represented by counsel, present evidence and cross-examine witnesses. Respondents irrevocably waive the right to such notice and hearing and to any court appeals related to this Order.
- 4. Respondents state that no promise of any kind or nature whatsoever was made to them to induce them to enter into this Consent Order and that they have entered into this Consent Order voluntarily.
- 5. Respondents acknowledge that the acceptance of this Order by the Director of the Arizona Department of Insurance is solely for the purpose of settling this matter and does not preclude any other agency or officer of this state or its subdivisions or any other person from instituting proceedings, whether civil, criminal, or administrative, as may be appropriate now or in the future.

| | Michael C. J | | who | holds | the | office | of |
|--------|----------------------|----------------------------|--------|-------|-------|--------|-----|
| Senior | Vice President | of Respondents is authoriz | zed to | enter | nto t | his Or | der |
| | and on their behalf. | | | | | | |

Continental Casualty Company, American Casualty Company of Reading, PA

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| 1 | COPY of the foregoing mailed/delivered | | | | | | |
| 2 | This 25th day of January 2002, to: | | | | | | |
| 3 | Sara Begley | | | | | | |
| 4 | Deputy Director Mary Butterfield | | | | | | |
| 5 | Assistant Director Consumer Affairs Division | | | | | | |
| 6 | Paul J. Hogan | | | | | | |
| 7 | Chief Market Conduct Examiner Market Conduct Examinations Section | | | | | | |
| 8 | Deloris E. Williamson Assistant Director | | | | | | |
| 9 | Rates & Regulations Division Steve Ferguson Assistant Director Financial Affairs Division Alexandra Shafer Assistant Director | | | | | | |
| 10 | | | | | | | |
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| 12 | Life & Health Division | | | | | | |
| 13 | Nancy Howse Chief Financial Examiner | | | | | | |
| 14 | Terry L Cooper Fraud Unit Chief | | | | | | |
| 15 | | | | | | | |
| 16 | DEPARTMENT OF INSURANCE 2910 North 44th Street, Second Floor | | | | | | |
| 17 | Phoenix, AZ 85018 | | | | | | |
| 18 | | | | | | | |
| 19 | S. David Childers, Esq. CNA Insurance Group | | | | | | |
| 20 | C/O Low & Childers, P.C. | | | | | | |
| 21 | 2999 North 44 th Street, Suite 250 Phoenix, AZ 85018 | | | | | | |
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